

Change in zoning from C-1 Commercial to C-2 Commercial and a waiver of the 10 foot landscape buffer area adjacent to Preston Highway on property located at 5203 Preston Highway, containing 0.71 acres total and being in Louisville Metro.

Owner/Applicant: Ratcliff Company, Inc.  
c/o Charles Hertzman  
4218 Shelbyville Road  
Louisville, KY 40207

Applicant's Representative: Alex Rosenberg, P.E.  
AGR Engineering, Inc.  
13005 Middletown Industrial Boulevard Ste H  
Louisville, KY 40223

Existing Uses: Vacant building  
Proposed Use: Auto sales  
Council District: 2—Barbara Shanklin  
**Staff Case Manager: Stephen Lutz, AICP (presented by  
Christopher French, AICP)**

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5<sup>th</sup> Street.)

**The following spoke in favor of this request:**

Alex Rosenberg, AGR Engineering, Inc., 13005 Middletown Industrial Boulevard Suite H, Louisville, KY 40223

**The following spoke in opposition:**

No one spoke.

**Interested Parties:**

No one spoke.

**Agency Personnel:**  
Christopher French, Planning Coordinator

**AGENCY TESTIMONY:**

Christopher French presented the case. He said that there is no new construction planned; however, the use is changing, and the landscape waiver is required to allow room for an auto display area. Mr. French showed a Power Point presentation with maps and photos of the site and the surrounding area. He noted that the applicant has worked with staff Landscape Architect to increase plantings and the number of trees on the site. The applicant said they will maintain the existing shrubs adjacent to Preston Highway. Mr. French stated that the existing sign on the property would be maintained and the sign pole would be painted based on Site Inspection Committee comments.

**SUMMARY OF TESTIMONY OF PROPONENTS:**

Alex Rosenberg, AGR Engineering Inc., spoke as the applicant's representative. He said the applicant has worked with staff to meet or exceed the Cornerstone 2020 standards.

Commissioner Wells-Hatfield said that, during a site visit, the Site Inspection Committee noticed that the rear of the property had a lot of graffiti and no lighting. Mr. Rosenberg said this is a currently vacant property; however, it is always in the owner's best interest to keep the property clean and well-lit. He said when the business moves in, those problems should be resolved.

**SUMMARY OF TESTIMONY OF OPPONENTS:**

No one spoke.

**SUMMARY OF TESTIMONY OF INTERESTED PARTIES:**

No one spoke.

**REBUTTAL:**

There was no rebuttal, since no one spoke in opposition.

An audio/visual recording of the Planning Commission hearing related to this case is available in the Planning and Design Services offices. Please contact the Customer Service staff to view the recording or to obtain a copy. The recording of this hearing will be found on the CD of the March 1, 2007 proceedings.

In a business session subsequent to the public hearing on this request, the Commission took the following action.

**Zoning:**

On a motion by Commissioner Wells-Hatfield, the following resolution was adopted:

**WHEREAS**, The Louisville Metro Planning Commission finds that the application is in agreement with the Policies of the Comprehensive Plan for Metro Louisville and that the applicant of this proposal has addressed, as much as possible, the many aspects, goals and objectives, guidelines and policies, of Cornerstone 2020 and taking into account Section A Guideline 1.B.8; and

**WHEREAS**, The Commission finds that this proposal is compatible with the surrounding uses in relation to use, mass and scale. The applicant will be providing landscaping on site. The proposal will not be out of character in the neighborhood since it is of similar intensity and commercial in nature and will be lighted and screened in a way as to lessen the impact on adjoining properties; and

**WHEREAS**, the Commission finds that the proposal appears in compliance with the Suburban Marketplace Corridor form area for the following reasons, among others identified elsewhere in this proposal and herein below. While the site is located within the Suburban Marketplace Corridor Form District there is however a large of amount of C-2 commercially zoned property nearby. The proposal is appropriate with the surrounding uses and provides an opportunity to provide much needed redevelopment of a vacant site.

**WHEREAS**, The Commission finds that the proposal has received preliminary approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Department of Public Works, and the Metropolitan Sewer District; and

**WHEREAS**, The Commission finds the proposal to be in conformance with all other applicable guidelines of the Comprehensive Plan; now, therefore, be it

**RESOLVED**, that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the legislative council of the Louisville Metro Government that the change in zoning **from C-1 Commercial to C-2 Commercial** on property described in the attached legal description be **APPROVED**.

**The vote was as follows:**

**YES: Commissioners Ernst, Carlson, Storm, Queenan, Abstain, Wells-Hatfield, Hamilton, Howard, and Blake.**

**NO: No one.**

**NOT PRESENT: No one.**

**ABSTAINING: No one.**

### **Waiver**

On a motion by Commissioner Wells-Hatfield, the following resolution was adopted:

**WHEREAS**, the Louisville Metro Planning Commission finds that the applicant has agreed to maximize the landscape plan and the existing greenspace; and

**WHEREAS**, the Commission further finds that the existing landscaping in the right-of-way adjacent to Preston Highway and the applicant's proposed increases in tree plantings on-site are adequate substitutes for the required landscape buffer; and

**WHEREAS** the Commission further finds that the requested waiver will not adversely affect adjoining property owners; and

**WHEREAS**, the Commission further finds that the requested waiver does not violate Cornerstone 2020; and

**WHEREAS**, the Commission further finds that the requested waiver is the minimum necessary to afford relief to the applicant, since strict application of the regulations would deprive the applicant of reasonable use of the land; now, therefore be it

**RESOLVED**, That the Louisville Metro Planning Commission does hereby **GRANT** a Waiver for the 10 foot landscape buffer required adjacent to Preston Highway as required by Section 4.4.8 paragraph D.2.

The waiver(s) are as specified in the Committee's resolution and do not waive any other regulation.

**The vote was as follows:**

**YES: Commissioners Ernst, Carlson, Storm, Queenan, Abstain, Wells-Hatfield, Hamilton, Howard, and Blake.**

**NO: No one.**

**NOT PRESENT: No one.**

**ABSTAINING: No one.**

### **Development Plan**

On a motion by Commissioner Wells-Hatfield, the following resolution was adopted:

**RESOLVED**, That the Louisville Metro Planning Commission does hereby **APPROVE** the Detailed District Development Plan for Docket No. 9-67-06W, subject to the following binding elements:

#### **Binding Elements – Docket 9-67-06W**

1. The development shall be in accordance with the approved district development plan, all applicable sections of the Land Development Code

(LDC) and agreed upon binding elements unless amended pursuant to the Land Development Code. Any changes/additions/alterations of any binding element(s) shall be submitted to the Planning Commission or the Planning Commission's designee for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The development shall not exceed 5,825 square feet of gross floor area
3. Signs shall be in accordance with Chapter 8.
4. No outdoor advertising signs, small freestanding signs, pennants, balloons, or banners shall be permitted on the site.
5. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
6. Before any permit (including but not limited to building, parking lot, change of use, site disturbance, alteration permit or demolition permit is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Inspections, Permits and Licenses, Louisville Metro Public Works and the Metropolitan Sewer District.
  - b. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in the planting details outlined within the concept landscape plan presented at the March 1, 2007 Planning Commission meeting prior to occupancy of the site for the specific use shown on this plan. The plan shall meet the requirements Chapter 10, Part 4 (Implementation) of the LDC. Such plan shall be implemented within the Spring of 2007, more precise timing may be stipulated within the landscape plan approval.
7. A certificate of occupancy for the specific use shown on this plan must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.

8. There shall be no outdoor music (live, piped, radio or amplified) or outdoor entertainment or outdoor PA system audible beyond the property line.
9. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.
10. At the time a certificate of occupancy for the specific use is requested, the applicant shall submit a certification statement to the permit issuing agency, from an engineer, or other qualified professional stating that any new lighting fixtures and elements of the proposed development is in compliance with Chapter 4 Part 1.3 of the land development code and shall be maintained there after. No certificate of occupancy for the specific outlined in this plan shall be issued unless such certification statement is submitted. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.

**The vote was as follows:**

**YES: Commissioners Ernst, Carlson, Storm, Queenan, Abstain, Wells-Hatfield, Hamilton, Howard, and Blake.**

**NO: No one.**

**NOT PRESENT: No one.**

**ABSTAINING: No one.**